

INTRODUCED: 03/21/2016

REFERRED TO: Administration and Finance Committee

SPONSOR: Councillors Robinson and Pfisterer

DIGEST: determines the need to lease certain space at 700 N. High School Road for use as a fire training facility by the Indianapolis Fire Department

SOURCE:

Initiated by: Indianapolis Fire Department

Drafted by: Richard McDermott, Assistant Corporation Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: _____ Date: March 17, 2016

CITY-COUNTY SPECIAL RESOLUTION NO. , 2016

PROPOSAL FOR A SPECIAL RESOLUTION determining the need to lease certain space at 700 N. High School Road, Indianapolis Indiana, for use as a fire training facility by the Department of Public Safety on behalf of the Indianapolis Fire Department.

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council, pursuant to IC 36-1-10-7, has investigated the conditions requiring the subject lease and hereby determines that the lease for space for use as a fire training facility by the Department of Public Safety on behalf of the Indianapolis Fire Department is needed.

SECTION 2. The property to be leased is located at 700 N. High School Road, Indianapolis Indiana. The owner of the property (as defined by Sec. 151-66 of the Revised Code) is the Metropolitan School District of Wayne Township, Marion County, Indiana.

SECTION 3. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this ____ day of _____, 2016, at ____ p.m.

ATTEST:

Maggie A. Lewis
President, City-County Council

NaTrina DeBow
Clerk, City-County Council

Presented by me to the Mayor this _____ day of _____, 2016, at 10:00 a.m.

NaTrina DeBow
Clerk, City-County Council

Approved and signed by me this _____ day of _____, 2016.

Joseph H. Hogsett, Mayor

EXHIBIT A

LEASE AGREEMENT

By and between

The Metropolitan School District

of Wayne Township

as Landlord,

and

City of Indianapolis, Department of Public Safety

on behalf of the Indianapolis Fire Department

as Tenant

Dated _____

LEASE

THIS LEASE ("Lease") is effective as of the date of _____, 2016, by and between The Metropolitan School District of Wayne Township, ("Landlord") and The City of Indianapolis, Department of Public Safety on behalf of the Indianapolis Fire Department ("Tenant").

In consideration of the mutual covenants hereinafter contained, and each act performed hereunder by either of the parties, Landlord and Tenant agree as follows:

ARTICLE I

LEASED PREMISES

Section 1.01. Leased Premises. Landlord lets and demises to Tenant, and Tenant leases from Landlord, certain real estate located at 700 N. High School Rd., Indianapolis, Indiana 46241, including, hereinafter described as the Administrative Building, CPAT Building, Outdoor Training Facilities, and Trailer (the "Leased Premises"). The Leased Property is identified on **Exhibit A**, attached hereto and made a part hereof, and designated as follows:

- a) Administrative Building. Landlord leases to Tenant classrooms A, B, C, and D on the second floor of the Administration Building (the "Classrooms"), as depicted on **Exhibit A**. Tenant shall have access to the Classrooms for one hundred eighty (180) days each calendar year this lease is in effect. Said days of Tenant's use shall be determined by mutual agreement by the parties, using best effort to meet the needs of Tenant.
- b) CPAT Building. Landlord leases to Tenant the CPAT Building, and the equipment contained within the CPAT Building, for one hundred (100) days each calendar year. Provided, however:
 - i. Landlord reserves the right to use the CPAT building and its equipment for 20 Saturdays each year.
 - ii. Notwithstanding any other provision in this Lease Agreement regarding repair and maintenance, Tenant hereby agrees to be responsible for the repair, maintenance, and replacement of any portable or interior equipment, including prop mechanisms, associated with the CPAT building, and the costs thereof, damaged while being utilized by the Tenant. This obligation to repair and maintain shall not include normal wear and tear. Normal wear and tear shall include any deterioration of the portable and interior equipment, including all prop mechanisms, that occurs during normal conditions and normal and reasonable use of the equipment.

- c) Training Tower, Control Tower, and Burn Building. Landlord lease to Tenant the Training Tower, Control Tower, and Burn Building depicted on **Exhibit A** (the “Outdoor Training Facilities”), along with the equipment contained within the Outdoor Training Facilities for one hundred eighty (180) days each calendar year, which shall be prorated based upon the date this lease is effective.
- i. Tenant acknowledges that the Wayne Township Fire Department is entitled to use the Outdoor Training Facilities for 2,200 hours each year pursuant to a prior agreement.
 - ii. Tenant shall be responsible for the cost of repair and replacement of any equipment damaged while in Tenant’s possession, excepting normal wear and tear.
- d) Fire Science Program Trailers. Landlord leases to Tenant the Fire Science Program Trailers (the “Trailers”) depicted on **Exhibit A** for one hundred eighty (180) days each calendar year, which shall be prorated based upon the date this lease is effective.
- i. Tenant acknowledges Landlord use of trailers from August to December and again in April and May of each year from approximately 12:00 noon to 3:00 p.m.
 - ii. Tenant shall be responsible for the cost of repair and replacement of any equipment damaged while in Tenant’s possession, excepting normal wear and tear.

Section 1.02. Common Areas. In accordance with this Lease, Landlord permits Tenant to access those portions of Landlord’s property so that Tenant may access and utilize the Leased Premises (the “Common Areas”). Tenant’s use of the Common Areas shall be non-exclusive, and includes, but is not limited to, those entrances, exits, lobbies, parking lots, truck services ways, stairways, elevators, hallways, ramps, sidewalks, washrooms, showers, and kitchens and kitchenettes within or serving the Leased Premises. Landlord agrees to operate and manage the Common Areas in a manner consistent with the prudent management of such facilities and keep the same in a clean, safe and well-lighted condition in compliance with all applicable laws, ordinances, rules, regulations, orders and directives of any federal, state, or local governmental entity.

ARTICLE II

TERM OF LEASE

Section 2.01. Original Term. The original term of this Lease shall be for two years commencing on the ____ day of _____, 2016 (the "Commencement Date") and terminating at 11:59 PM on the ____ day of _____, 2018. Tenant shall have an option to extend this lease for one (1) additional two (2) year term, which would begin on the ____ day of _____, 2018 and end on the ____ of _____, 2020, provided the Tenant gives Landlord written notice of its intention to exercise said option on or before the ____ day of _____, 2016. (six months before expiration of lease)

ARTICLE III

OCCUPANCY AND USE OF LEASED PREMISES

Section 3.01. Permitted Use. The Leased Premises shall be used as a training facility for training firefighters of the Indianapolis Fire Department and to include the limited use by the Indianapolis Fire Department supported fire program at Arsenal Technical High School. Landlord warrants that applicable laws, ordinances, regulations, and restrictive covenants will permit the premises to be used as a fire training facility as of the date of occupancy. Tenant shall not use the Leased Premises for any unlawful purpose or act; shall not commit waste or damage to the Leased Premises, normal wear and tear excepted; shall not create a nuisance or use the Leased Premises for any illegal purpose; shall, comply with and obey all federal, state, municipal and other applicable laws, regulations, or orders of any governmental authority or agency relating to the operating, managing, equipping, lighting, fixturing, repairing, replacing, and maintaining the Leased Premises to the extent the duty is an obligation of Tenant under this Lease.

ARTICLE IV

RENTAL

Section 4.01. Rent. The Tenant shall pay as annual rent for the Leased Premises the sum of One Hundred and Seven Thousand Dollars and 00/cents (\$107,100.00) per year for the term of this Lease (hereinafter "Rent"), payable in monthly installments in the amount of Eight Thousand, Nine Hundred and Twenty Five Dollars and 00/cents (\$8,925.00). The first Rent payment shall be due on Commencement date. Landlord's costs for operating, maintenance, insurance, and taxes are included in the Rent, and Landlord shall not separately bill Tenant for any expenses in addition to the Rent, except as provided in Section 4.02. Tenant shall pay all rent to "Emergency Services Education Center" at 700 N. High School Road, Indianapolis, Indiana 46214.

Section 4.02. Additional Expenses. In addition to rent, Tenant's shall pay a cost not to exceed \$1,500 annually for the costs associated with the Tenant's use of smoke solution, methane, propane, etc. provided by the Landlord.

Section 4.03. Early Termination. Notwithstanding any other provision of this Lease, all payment obligations of Tenant to Landlord pursuant to this Lease shall be subject to annual appropriation by the fiscal body governing the Tenant or other appropriate fiscal body.

In the event no funds, or insufficient funds, are appropriated and budgeted or are otherwise not made available by any other means whatsoever in any fiscal period for payment of Tenant's obligation pursuant to this Lease (hereinafter, an "Event of Nonappropriation"), then Tenant will immediately notify the Landlord or its assignee of such occurrence and upon the non-payment of a scheduled payment pursuant to this Lease, Landlord will have all legal and equitable rights and remedies to take possession of the Leased Premises. If an Event of Nonappropriation occurs, Landlord may terminate this Lease as of the last date of the fiscal period in which appropriations were received by Tenant for this Lease, and Tenant agrees to surrender possession of the Leased Premises.

This Lease may be terminated in whole or in part by either Landlord or Tenant for any reason; provided, however, that the terminating party must provide the non-terminating party at least six (6) months prior notice of termination, delivered by certified mail, return receipt requested. The non-terminating party must be granted the opportunity for consultation regarding the reasons for termination with the terminating party prior to termination. All Rent due under the lease shall be prorated according to the date this Lease becomes terminated.

ARTICLE V

ASSIGNMENT AND SUBLETTING

Section 5.01. Assignment and Subletting. Tenant shall not assign this Lease nor sublet the Leased Premises in whole or in part without the Landlord's prior written consent, which shall not be unreasonably withheld.

ARTICLE VI

SERVICES, REPAIRS, AND MAINTENANCE

Section 6.01. Obligations of Tenant. Tenant shall, at its sole cost and expense, shall keep the Leased Premises in a neat and orderly condition, consistent with the proper conduct of its business operation, including the outdoor areas of the Leased Premises. Tenant further agrees to keep the Leased Premises in a clean and orderly condition, and will comply with all legal requirements in regard to operation of the same. Upon the expiration of this Lease, Tenant shall remove any and all debris, trash, and refuse resulting from or placed by Tenant upon the Leased Premises.

Section 6.02. Obligations of Landlord. Landlord shall provide ordinary maintenance and repair of the Leased Premises and all appurtenances thereto. Landlord's maintenance obligation includes, but is not limited to: snow and ice removal from the sidewalks adjacent to the Leased Premises; landscaping; window cleaning; roof repairs; fire life and safety alarms to the adjoining Common Area spaces; and trash removal. Additionally, Landlord, at its sole cost and expense, shall keep the foundation; exterior walls; structural columns; fire protection equipment; heating,

ventilating, and air conditioning equipment (HVAC); all electrical, water, plumbing, sanitary sewer equipment and facilities within the Leased Premises and used in connection with the Leased Premises; and equipment relating to or serving the Leased Premises to the point of entry into the Leased Premises in good condition and repair and make such modifications or replacements thereof as may be necessary for Tenant's comfortable use and enjoyment of the Leased Premises. Landlord shall, at its sole cost and expense, keep the Common Area in good and sanitary order, condition, and repair, including all necessary replacements. In addition, Landlord, at its sole cost and expense, shall keep the roof, gutters, and downspouts in the Building and Common Areas adjacent to the Leased Premises or used by Tenant in connection with its use of the Leased Premises in good condition and repair. Repairs to or maintenance that are requested in writing by Tenant and that are required to be performed by Landlord pursuant to this Lease shall be resolved by Landlord within three (3) business days of the request, unless Landlord is diligently pursuing such repair or maintenance.

Section 6.03. Surrender of Leased Premises. All alterations, repairs, or improvements except movable trade fixtures, communications equipment, office furniture and equipment of the Tenant shall be and remain the property of the Landlord. Movable trade fixtures, office furniture and equipment, any and all personal property, and unattached equipment installed by Tenant may be removed at the termination of this Lease. Any trade fixtures, office furniture and equipment, personal property, communications equipment, and unattached equipment remaining on or in the Leased Premises upon termination of this Lease shall, if not removed within thirty (30) days after Tenant vacates the Leased Premises, shall become, at Landlord's option, the property of Landlord, without liability to Tenant. Tenant shall surrender the Leased Premises at the end of the Leased Term, or at the termination of the tenancy, in good condition and repair, ordinary wear and tear and damage by casualty or condemnation excepted. The obligations of Tenant under this Section 6.03 shall survive the expiration of the Leased Term or the termination of this Lease.

Section 6.04. Negligence Clause. Any maintenance, repairs, or replacements to such foundation, walls, roof, fire protection equipment and systems, downspouts, gutters and structural parts relating to the Leased Premises, Building, or Common Areas made due to misuse, willful misconduct, negligence, damage beyond reasonable wear and tear, or breaking of this Lease by Tenant, its agents, employees, invitees, contractors, or Tenant's agents' employees or contractors shall be paid for by Tenant.

Section 6.05. Government Compliance. Landlord shall perform and is liable for all costs associated with governmentally mandated alterations from statutes, ordinances, laws, rules, regulations, and orders.

Section 6.06. No Lien Clause. No person shall ever be entitled to any lien, directly or indirectly, derived through or under Tenant, or through or under any act or omission of Tenant; upon Landlord's interest in the Leased Premises, or any improvements now or hereafter situated thereon, or upon any insurance policies taken out upon the Leased Premises, or the proceeds thereof; for or on account of any labor or materials furnished to the Leased Premises, or for or on account of any matter or thing whatsoever; and nothing contained in this Lease shall be

construed to constitute a consent by Landlord to creation of any lien. In the event that any such lien shall be filed against Landlord's interest in the Leased Premises due to work performed for or on behalf of Tenant or due to Tenant's acts or omissions, Tenant shall cause such lien to be released, or shall provide a bond, insurance, or other security to protect Landlord against such lien, within sixty (60) days after actual notice of the filing of such lien, or shall within such time certify to Landlord that Tenant has a valid defense to such claim and such lien and furnish to Landlord a bond, insurance, or other security, satisfactory to Landlord, indemnifying or otherwise protecting Landlord against the foreclosure of such lien.

ARTICLE VII

INSURANCE AND INDEMNIFICATION

Section 7.01. Waiver of Claims. Landlord and its agents shall have no liability to Tenant for any damage to the property of Tenant, located in or about the Leased Premises, unless caused by breach of Landlord's obligations hereunder or unless the result of Landlord's negligence. Nothing herein shall release Tenant from liability hereunder except to the extent Tenant is to be covered by Landlord's insurance hereunder.

Section 7.02. Indemnification. Tenant agrees to indemnify, defend, and hold harmless Landlord and its officers, agents, and employees for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission of Tenant or any of its officers, agents, employees or subcontractors, as well as those claims, actions, causes of action, judgments and liens arising from the breach of Tenant's obligations under this Lease by Tenant and its officers, agents, employees or subcontractors. Such indemnity shall include all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration for any insurance coverage required herein.

Landlord agrees to indemnify, defend, and hold harmless Tenant and its officers, agents, and employees for any and all third party claims, actions, causes of action, judgments and liens to the extent they arise out of any negligent or wrongful act or omission of Landlord or any of its officers, agents, employees or subcontractors, as well as those claims, actions, causes of action, judgments and liens arising from the breach of Landlord's obligations under this Lease by Landlord or any of its officers, agents, employees or subcontractors. Such indemnity shall include all costs and other expenses arising therefrom or incurred in connection therewith and shall not be limited by reason of the enumeration for any insurance coverage required herein.

Landlord further agrees to indemnify, defend, and hold harmless Tenant and its officers, agents, and employees for any and all third party claims, actions, causes of action, judgments, and liens to the extent they arise from environmental conditions at or around the Leased Premises which accrued prior to the commencement date of the Lease and which materially affect the health and safety of Tenant's customers, employees, agents, and guests ("Pre-Existing Environmental Conditions"). Landlord hereby agrees that it will immediately remedy any Pre-Existing Environmental Condition which is identified and ordered to be remedied by any local, state or federal authority.

Nothing contained herein shall cause Tenant to incur any liability in excess of that provided by for the Indiana Tort Claims Act, Indiana Code 34-13-3-1, *et seq.*

Section 7.03. Insurance. Landlord shall, at its sole cost and expense, procure and maintain, throughout the term of this Lease, fire and extended coverage insurance, together with all risks coverage, on the Leased Premises, which shall not include the movable trade fixtures, personal property, office furniture, and equipment of Tenant. Landlord shall also, at its sole cost and

expense, procure and maintain any and all additional insurance that it deems necessary for its protection against loss or damage to property situated on the Leased Premises.

Tenant hereby acknowledges and confirms that it is *self-insured* for general liability claims. Tenant agrees to provide Landlord, upon request, with a letter certifying Tenant's self-insured status.

Section 7.04. Mutual Waiver of Subrogation Rights. Landlord and Tenant waive any right of subrogation that might otherwise exist in or accrue to any person on account of any loss or claim under Sections 7.01, 7.02, or 7.03 above.

ARTICLE VIII

DAMAGE TO LEASED PREMISES

Section 8.01. Damage to the Leased Premises. In the event the Leased Premises, access to the Leased Premises, or any portion of the Common Area required for the comfortable use and enjoyment of the Leased Premises are partially or totally destroyed by fire, any insured cause or other casualty, then, subject to the following terms of this Section 8.01, Landlord shall repair or restore the same to substantially the same condition as existed prior to such fire or other casualty; provided, however, that Landlord shall not be obligated to rebuild the Leased Premises if Landlord receives insufficient proceeds from insurance. Landlord agrees it shall not settle any claims against any insurance carrier for less than the full replacement cost of any damaged improvements without the prior written consent of Tenant. If the Leased Premises are untenable, all rent shall abate from the date of the fire or other relevant cause, condition or thing until the Leased Premises are substantially restored and reasonably accessible for occupancy by Tenant, or this Lease is terminated as hereinabove provided; if part of the Leased Premises is untenable, rent shall be prorated on a per diem basis and apportioned in accordance with the part of the Leased Premises that is usable by the Tenant until the damaged part is ready for Tenant's occupancy, or this Lease is terminated as hereinabove provided.

If Landlord does receive sufficient proceeds from insurance, Landlord shall proceed as soon as practical, and in all events shall use commercially reasonable efforts, to cause such rebuilding and repair to be completed to substantially the same condition as existed prior to such destruction within one hundred eighty (180) days after the release of the insurance proceeds to Landlord.

ARTICLE IX

EMINENT DOMAIN

Section 9.01. Condemnation of Leased Premises. If the whole or any part of the Leased Premises shall be taken or acquired by any public or quasi-public authority under the power or

threat of eminent domain, the Leased Term shall cease as of the day possession shall be taken by such public or quasi-public authority.

ARTICLE X

COMMON AREA

Section 10.01. Control of Common Area by Landlord. The Common Area shall at all times be subject to the exclusive control and management of Landlord, and Landlord shall have the right: (i) to establish, modify, and enforce reasonable rules and regulations, (ii) to cause its concessionaires and suppliers, officers, agents, employees, and independent contractors to abide and conform to such rules and regulations, (iii) to use reasonable efforts to cause customers, invitees, and licensees to abide and conform to such rules and regulations, (iv) to alter, change, redesign, and reconstruct the arrangement of any facilities located in the Common Area, (v) to close all or any portion of the Common Area to such extent, in the opinion of Landlord's counsel, is legally sufficient to prevent a dedication thereof or the accrual of any rights to any person or the public therein, and (vi) to close temporarily any portion of the facilities and to do and perform such other acts in and to the Common Area as Landlord shall determine to be advisable with a view to the improvement of the convenience and use thereof by tenants, their officers, agents, employees, invitees, and customers. No such alteration or use of the Common Area by Landlord shall materially impede the access to the Leased Premises, nor obstruct the exposure of the Leased Premises to the surrounding streets of the Building, nor reduce the number of parking spaces without the Tenant's prior written consent, which consent shall not be unreasonably withheld. The Common Area hallways adjacent to the Leased Premises shall be comfortably heated and/or cooled at all times during Business Hours and shall be sufficiently lighted at all times to permit safe ingress and egress through such hallways to the Leased Premises. Without limiting the scope of such discretion, Landlord shall have the full right and authority to employ all personnel and to make all rules and regulations pertaining to and necessary for the proper operation and maintenance of the Common Area.

Section 10.02. Rules and Regulations. Such rules and regulations shall not conflict or unduly restrict the Tenant from using the Leased Premises in conformance with its stated use, pursuant to Section 3.01. Such rules and regulations shall be binding upon the Tenant upon written notice to Tenant, and for the enforcement of said rules and regulations, Landlord shall have available to it all remedies in this Lease provided for a breach thereof, and all legal remedies whether or not provided for in this Lease, at law, or in equity.

ARTICLE XI

SURRENDER OF THE LEASED PREMISES

Section 11.01. Surrender of the Leased Premises. At the end of the term of this Lease, or other date upon which this Lease is terminated, Tenant will peaceably deliver possession of the Leased Premises to Landlord, together with all improvements and personal property stored upon the Leased Premises belonging to Landlord, in the same condition Tenant received the same, excepting ordinary wear and tear, condemnation, and damage by fire, earthquake, flood, or other

natural or unforeseeable occurrence. Tenant shall also remove all unattached, movable trade fixtures and personal property at Tenant's sole cost and expense. In the event Tenant continues to occupy the Leased Premises after the last day of the term hereby created, or after the last day of any extension of said term, and the Landlord elects to accept rent thereafter, a tenancy from month-to-month only shall be created and not for any longer period. Tenant shall indemnify the Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Leased Premises, including without limitation, any claims made by any subsequent Tenant founded upon such delay.

ARTICLE XII

TAXES

Section 12.01. Real Estate Taxes. Landlord shall pay all real estate taxes, if any, due and payable upon the Leased Premises during the Leased Term.

ARTICLE XIII

DEFAULT

Section 14.01. Rights on Tenant's Default. The following shall constitute an "Event of Default" by Tenant under this Lease: (a) a failure to pay when any payment is due under this Lease, provided that with regard to any payment default or other default provided in Section 14.01(a), no Event of Default shall exist until ten (10) days after such payment is due pursuant to this Lease, or (b) any other default by Tenant in the performance or observance of its obligations under this Lease which shall continue after thirty (30) days written notice by Landlord to Tenant; provided that if such default is not reasonably susceptible of being cured within said thirty (30) day period, an Event of Default shall not exist if Tenant has commenced efforts to cure such default within such thirty (30) day period and thereafter diligently pursues the same to completion.

Section 14.02. Default by Landlord. Landlord shall be charged with an Event of Default if Landlord has failed to perform its obligation hereunder, and Landlord shall have failed to perform such obligation, or cure such failure, within thirty (30) days after receipt of notice from Tenant; provided that if such failure is not reasonably susceptible of being cured within said thirty (30) day period, an Event of Default shall not exist if Landlord has commenced efforts to cure such failure within such thirty (30) day period and thereafter diligently pursues the same to completion.

ARTICLE XV

MISCELLANEOUS

Section 16.01. Waivers. No waiver of any condition or covenant in this Lease by either party shall be deemed to imply or constitute a further waiver of the same or any other condition or covenant of this Lease. The failure of either party to exercise any of its rights is not a waiver of those rights. A party waives only those rights specified in writing and signed by the party

waiving its rights. The subsequent acceptance of Rent or other performance hereunder by the Landlord shall not be deemed to be a waiver of any preceding breach by the Tenant of any term, covenant, or condition of this Lease, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent or other performance, unless the Landlord shall specifically so state in writing.

Section 16.02. Remedies. The remedies of the parties provided herein shall be cumulative, and no one of them shall be construed as exclusive of any other or of any remedy provided herein. The parties' remedies shall survive the ending of this Lease when the ending is caused by the default of the other party.

Section 16.03. Notices and Certificates. All notices required under this Lease shall be deemed to be properly served if sent (i) by registered or certified mail with return receipt requested or (ii) by facsimile, provided an original of the required notice is sent via overnight mail with a responsible company specializing in overnight delivery the same day such facsimile is sent, to Landlord or Tenant addressed as follows:

If to Landlord:

Chief Financial Officer
MSD of Wayne Township
1220 S. High School Road
Indianapolis, IN 46241

If to Tenant:

Department of Public Safety
ATTN: Chief of Indianapolis Fire Department
200 E. Washington Street, Suite E220
Indianapolis, IN 46204

or to such other addresses as Landlord or Tenant may designate in writing delivered to the other party for such purpose. Date of service of a notice served by mail or via facsimile shall be the date on which such notice is deposited in a post office of the United States Postal, or (b) the date on which such notice is sent if sent via facsimile.

Section 16.05. Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, or of partnership, or of joint venture, between the parties hereto.

Section 16.06. Conveyance, Assignment or Mortgage by Landlord. Landlord warrants and represents that it is the owner in fee simple of the Leased Premises. Accordingly, Landlord shall not convey or assign its fee simple interest in the Leased Premises at any time, to any person or organization whatsoever, without the prior written consent of the Tenant. In the event Tenant agrees or consents to such conveyance or assignment in writing, Landlord shall deliver to Tenant copies of all fully executed conveyance or assignment documents immediately upon such assignment or conveyance. Tenant shall thereafter make all payments, in accordance with the conveyance or assignment documents, to the grantee or assignee named therein. In the event Tenant does not agree or consent to Landlord's proposed conveyance or assignment, Tenant shall have the right to cancel this Lease upon delivering notice of such election to the Landlord within ten (10) days of the receipt of such notice of conveyance or assignment of Landlord's interest.

Notwithstanding any provision to the contrary, Landlord shall have the right to mortgage its interest in the Leased Agreement at any time and to any person or organization without the consent of Tenant. Such mortgage must be in writing and copy shall be delivered to Tenant within ten (10) days of its execution.

Section 16.07. Law of Indiana. This Lease has been executed under and shall be governed by the laws of the State of Indiana.

Section 16.08. Choice of Forum. The parties agree to pursue any litigation in a court of competent jurisdiction within the State of Indiana.

Section 16.11. Force Majeure. In the event that Landlord or Tenant shall be delayed or hindered in or prevented from doing or performing any act or thing required in this Lease by reason of strikes, lock-outs, casualties, Acts of God, labor troubles, inability to procure materials, failure of power, governmental laws or regulations, riots, insurrection, war or other causes beyond the reasonable control of such party, then such party shall not be liable or responsible for any such delays and the doing or performing of such act or thing shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

Section 16.12. Complete Agreement. This Lease contains a complete expression of the agreement between the parties and there are no promises, representations, or inducements except such as are herein provided.

Section 16.13. Successors in Interest. The covenants, agreements, terms, conditions, and warranties of this Lease shall be binding upon and inure to the benefit of Landlord and Tenant and their respective heirs, executors, administrators, successors, and assigns, but shall create no rights in any other person except as may be specifically provided for herein.

Section 16.14. Partial Invalidity. If any Lease provision is invalid or unenforceable to any extent, then that provision shall be deemed modified to the extent necessary to render that provision enforceable and the remainder of the Lease shall continue in effect and be enforceable to the fullest extent permitted by law.

Section 16.15. Quiet Enjoyment. Landlord covenants that if Tenant performs and observes the covenants hereunder to be performed or observed by Tenant, Tenant shall peaceably and quietly have, hold, and enjoy the Leased Premises during the Leased Term.

Section 16.16. Scheduling. Tenant agrees to coordinate with the Landlord the scheduling of the Leased Premises and will provide Landlord with a monthly calendar which outlines the schedule and use of the facilities in accordance with and subject to the terms of this Lease.

Section 16.21. Modifications. This Lease may not be changed or modified unless mutually agreed upon in a writing signed by an authorized representative of each party. The term "Lease" shall mean and encompass all extensions, renewals, and modifications.

Section 16.23. Non-Discrimination. Landlord shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Lease, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States military service veteran status.

Section 16.24. Conflict of Interest.

- i. Landlord warrants that to the best of its actual knowledge no employee of the Tenant presently has any financial or ownership interest in Landlord or any affiliate thereof and there are no existing agreements or understandings of any kind with respect to any such financial or ownership interest.
- ii. Landlord warrants that to the best of its actual knowledge no employee of the Tenant will receive or is intended to receive an ascertainable increase in his/her income or net worth as a result of this Lease or any agreement related hereto, except for income which such employee may receive by virtue of his/her future employment by Landlord and which is on terms substantially similar to the employment terms of other Landlord's employees.
- iii. Landlord warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Lease. The Landlord further covenants that in the performance of this Lease no person having any such interest shall be employed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates
subscribed below.

**City of Indianapolis, Department of Public
Safety, for and on behalf of the
Indianapolis Fire Department** (“Tenant”)

**The Metropolitan School District of Wayne
Township** (“Landlord”)

By: _____
David Wantz, PhD, Acting Director DPS

By: _____

Date: _____

Printed: _____

Title: _____

Date: _____

Approved as to form and legality:

By: _____
Richard McDermott,
Assistant Corporation Counsel

Date: _____

[] Approved for availability of funds
or
[] Approved for execution:

By: _____
Fady Qaddoura, City Controller